

# **FILING FOR DEFAULT**

**YOU CAN USE THIS PACKET IF ALL OF THE FOLLOWING  
ARE TRUE:**

- ☐ YOU STARTED A CASE BY FILING A COMPLAINT
- ☐ YOU SERVED THE COURT PAPERS ON THE OTHER PARTY
- ☐ YOU FILED PROOF OF SERVICE WITH THE COURT
- ☐ THE OTHER PARTY WAS REQUIRED TO FILE A WRITTEN RESPONSE WITH THE COURT
- ☐ THE OTHER PARTY FAILED TO RESPOND
- ☐ THE OTHER PARTY IS NOT IN MILITARY SERVICE

Before signing a court document or getting involved with a court case, it's important to see an attorney to make sure you understand your legal rights and responsibilities. The Self-Help Center has information on finding an attorney.

## INSTRUCTIONS

Read all instructions and forms before starting. Fill out forms by printing in blue ink or typing. Do not fill in un-numbered blanks on forms.

**Filing Forms with the Court:** Take or mail forms to be filed to the Clerk of Superior Court, 200 N. San Francisco St., Flagstaff, AZ 86001. Submit the original, one copy for yourself, and one copy for each person you must give a copy to, if any. The Clerk will stamp your copies with the filing date and return them to you. If you file by mail, include a self-addressed, stamped envelope and a note asking the Clerk to return the copies.

## WHAT IS DEFAULT?

In certain cases, after you file a Complaint and serve it on the other party, the law gives the other party a limited time to file a written Answer with the court. If the other party fails to do so, you can ask the court to hold the other party in “default”. Once the court “enters” default, the other party has one last chance to respond. If he/she fails to do so, the default goes into effect, and the other party no longer has the chance to tell the court his/her side of the story. (If you are asking for a money award, however, the other party may still debate the *amount* of the award.)

Once the default goes into effect, the court will hold a default hearing. At the hearing, the judge will review the requests in your Complaint and grant those that have merit by signing a Decree, Order, or Default Judgment, bringing your case to a close.

**Is the Other Party Required to Respond?:** In certain cases, the other party is not required to respond, and the default procedure does not apply. Cases where default does not apply include orders to show cause and requests for temporary orders, among others. Cases where default does apply include divorces and legal separations, among others. If you don’t know whether the other party must respond, see the Arizona laws on your case or ask an attorney.

**Serving Court Papers:** For information on which papers must be served and how to serve them, see the Self-Help packet *Serving Court Papers on the Other Party at the Start of Your Case*. This information also is in the Self-Help Center packets on divorce and legal separation.

## STEP 1: CHECK THAT THE OTHER PARTY FAILED TO RESPOND

See the table below for how long Defendant has to respond. Find the date in the “After” column on a calendar. Start counting on the next day. Count off the days in the “Count” column, including weekends and holidays. Defendant must respond by the last date you counted, unless it’s a weekend or court holiday, in which case Defendant must respond by the next workday. (Call the Clerk of Court at 928-779-6535 to make sure the other party has not filed an Answer.)

Where Were the Papers Served?	How Were the Papers Served?	Count:	After:
In AZ, not on an Indian Reservation	Acceptance of Service	20 days	The other party signs the Acceptance of Service
	Process Server	20 days	The other party receives the papers from the process server
	Sheriff	20 days	The other party receives the papers from the sheriff
In AZ, on an Indian Reservation*	Acceptance of Service	30 days	The other party signs the Acceptance of Service
	Tribally Licensed Process Server	30 days	The other party receives the papers from the process server
	Tribal Law Enforcement	30 days	The other party receives the papers from the officer
Outside of AZ	Acceptance of Service	30 days	The other party signs the Acceptance of Service
	Certified Mail	30 days	The other party signs the green card
	Process Server	30 days	The other party receives the papers from the process server
	Sheriff or Tribal Law Enforcement	30 days	The other party receives the papers from the officer
	Publication	30 days	30 days after the first publication

**\*If the Papers Were Served on an Indian Reservation in Arizona:** Depending on the facts and circumstances of the case, there *may* be fewer days for the Defendant to respond. An attorney can advise you.

## STEP 2: FILL OUT THE APPLICATION FOR DEFAULT AND ENTRY OF DEFAULT

- (1) Enter your name; street address; city, state, and zip code; and phone number.
- (2) Enter your name as it appears on the Complaint.
- (3) Enter the other party's name as it appears on the Complaint.
- (4) Enter the case number as it appears on the Complaint.
- (5) Sign in front of a notary.

**Certificate of Service:** If you do not know where the other party lives or if he/she has an attorney, leave Blanks 7-9 blank. Otherwise, follow the instructions below.

- (6) Enter the date you will file the Application.
- (7) Enter the other party's name and address and, if he/she has an attorney, that attorney's name and address.
- (8) Enter the date you will file the Application, and sign the document.

**STEP 3: MAIL A COPY OF THE APPLICATION FOR DEFAULT AND ENTRY OF DEFAULT TO THE OTHER PARTY**

Send a copy of the Application for Default and Entry of Default through first-class mail, postage prepaid to the following people *on the same day you file it*.

- ☐ The other party, if you know where he/she lives
- ☐ The other party's attorney, if he/she has one

**STEP 4: FILE THE FOLLOWING WITH THE COURT**

- ☐ Application and Entry of Default

**STEP 5: WAIT FOR THE OTHER PARTY TO RESPOND**

The other party has 10 days from the date you filed the Application for Default to file a written Answer with the court. Find the filing date stamped on your copy of the Application for Default. Note that if you filed by mail, the filing date is not the date you mailed the documents; it is the date the court processed them and stamped on your copy. Find the filing date on a calendar. Starting on the next workday, count off 10 workdays -- do not count weekends and holidays. You may act on the next workday. (Call the Clerk of Court at 928-779-6535 to make sure the other party did not file an Answer.)

**If the other party DOES NOT file an Answer** by the date required, proceed to FILL OUT THE REQUEST FOR HEARING, below.

**If the other party DOES file an Answer** by the date required, see the Self-Help packet *How to Set Your Case for Trial*.

**STEP 6: FILL OUT THE REQUEST FOR HEARING**

- (1) Enter your name; street address; city, state, and zip code; and phone number.
- (2) Enter your name as it appears on the Complaint.
- (3) Enter the other party's name as it appears on the Complaint.
- (4) Enter the case number as it appears on the Complaint.
- (5) Date and sign.

**STEP 7: FILL OUT THE ORDER SETTING DEFAULT HEARING**

- (1) Enter your name; street address; city, state, and zip code; and phone number.
- (2) Enter your name as it appears on the Complaint.
- (3) Enter the other party's name as it appears on the Complaint.
- (4) Enter the case number as it appears on the Complaint.

**STEP 8: FILE THE FOLLOWING WITH THE COURT**

- ☐ Request for Default Hearing
- ☐ Order Setting Default Hearing

**STEP 9: THE COURT WILL MAIL YOU THE SIGNED ORDER SETTING HEARING WITH THE HEARING DATE FILLED IN**

**STEP 10: SEND A COPY OF THE ORDER SETTING HEARING TO THE OTHER PARTY**

*At least three days before the hearing, mail or hand-deliver a copy of the Order Setting Hearing, with the hearing date filled in and the judge's signature stamped on it, to the other party if you know where he/she lives. If he/she has an attorney, deliver the copy to that attorney.*

**STEP 11: GO TO THE HEARING**

Go to the hearing. Bring any witnesses and three copies of any evidence that may support your case. Bring a copy of *every document* you filled out or filed with the court in your case, including the Complaint and the Decree, Order, or Judgment. Be prepared to testify about why you think your requests should be granted.

The judge will ask you a few simple questions, which may include the following.

1. If your fees were waived or deferred, can you pay them now? Why not?
2. Do you believe what you're asking for is fair? (custody, division of property, etc.)
3. In Divorce, Legal Separation, and Annulment Cases:
  - a. Had you or your spouse lived in Arizona, or had either of you been a member of the Armed Forces stationed in AZ, at least 90 days before the Complaint was filed?
  - b. When and where were you married?
  - c. Is your marriage irretrievably broken? (This means: Is there any reasonable chance you can continue with the marriage?)
  - d. Are you aware of Conciliation Court? Do you think additional counseling could save your marriage?
  - e. Do you want your former name restored?

For general information about representing yourself in court, see the Self-Help Center packet *Representing Yourself in Court*.

**STEP 12: SEND THE SIGNED DECREE/ORDER/JUDGMENT TO THE OTHER PARTY**

Mail or hand-deliver a copy of the signed Decree/Order/Judgment to the other party if you know where he/she lives. If he/she has an attorney, send the copy to that attorney.

(1) Person Filing: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Representing Self

**SUPERIOR COURT OF ARIZONA, COUNTY OF COCONINO**

(2) \_\_\_\_\_ Case Number: (4) \_\_\_\_\_  
Plaintiff

(3) \_\_\_\_\_  
Defendant

**APPLICATION FOR DEFAULT  
AND ENTRY OF DEFAULT**

I, Plaintiff, ask the court to enter default of Defendant.

I served a copy of the Complaint and Summons on Defendant, and Defendant failed to plead or otherwise defend in this action within the time required by law.

Defendant is not in military service.

**Notice to Defendant:** If you do not file a written response with the court or otherwise defend in this action within 10 days of this Application being filed, a default judgment may be entered against you.

(5) \_\_\_\_\_ Plaintiff's Signature: \_\_\_\_\_

State of Arizona )

)

County of \_\_\_\_\_ )

Subscribed and sworn before me this date: \_\_\_\_\_ by: \_\_\_\_\_

Seal:

Notary Public: \_\_\_\_\_

Notary Expiration Date: \_\_\_\_\_

### **CERTIFICATE OF SERVICE**

I certify that a copy of this Application was sent to Defendant and his/her attorney if he/she has one at the address below by first-class mail, postage prepaid on this date: (6) \_\_\_\_\_

(7) Defendant:

Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

Defendant's Attorney:

Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

(8) Date: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff's Signature

### **ENTRY OF DEFAULT**

Defendant was properly served with the necessary papers in this case. Defendant failed to respond in the manner or time required by law. Default of Defendant is entered.

Dated: \_\_\_\_\_

Clerk of Superior Court

by: \_\_\_\_\_  
Deputy Clerk

(1) Person Filing: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Representing Self

**SUPERIOR COURT OF ARIZONA, COUNTY OF COCONINO**

(2) \_\_\_\_\_  
Plaintiff

Case Number: (4) \_\_\_\_\_

**ORDER SETTING DEFAULT HEARING**

(3) \_\_\_\_\_  
Defendant

Good cause appearing, IT IS ORDERED that a default hearing is set in this case as follows:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Superior Court Division: \_\_\_\_\_

(All Divisions are in the Coconino County Court House at 200 North San Francisco, Flagstaff.)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of the Superior Court



(1) Person Filing: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Representing Self

**SUPERIOR COURT OF ARIZONA, COUNTY OF COCONINO**

(2) \_\_\_\_\_ Case Number: (4) \_\_\_\_\_  
Plaintiff

**REQUEST FOR DEFAULT HEARING**

(3) \_\_\_\_\_  
Defendant

I, Plaintiff, ask the court to set a default hearing in this case. Defendant has defaulted, and all applicable time periods have passed.

(5) Dated: \_\_\_\_\_  
Plaintiff's Signature